

IN RE: PETITION FOR ZONING VARIANCE  
 SW/S Weddel Avenue, 550' NW  
 of Benson Avenue  
 (1214 Weddel Avenue)  
 13th Election District  
 1st Councilmanic District  
 Donald Proescher, et ux  
 Petitioners

\* BEFORE THE  
 \* DEPUTY ZONING COMMISSIONER  
 \* OF BALTIMORE COUNTY  
 \* Case No. 93-58-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as a Petition for Zoning Variance filed by the legal owners of the subject property, Donald and Margaret Proescher. The Petitioners request relief from Sections 1B01.2.C.2 and 301.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an open projection setback of 7 feet in lieu of the required 11.25 feet and to amend the final development plan of the Resubdivision of a Portion of Whittemore Park for an existing carport in accordance with Petitioner's Exhibit 1.

Appearing on behalf of the Petition were Donald and Margaret Proescher. There were no Protestants.

Testimony indicated that the subject property, known as 1214 Weddel Avenue, consists of 7,950 sq.ft. zoned D.R. 5.5 and is improved by a single family dwelling with an attached carport, above-ground swimming pool, and shed. The Petitioners filed the instant Petition as a result of an anonymous complaint filed with the Zoning Office as to the carport. Testimony indicated that the Petitioner constructed the subject carport without benefit of a building permit and was not aware that a variance was needed. Donald Proescher testified that his neighbor on the affected side has never complained to him and had even complimented his work.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

It is clear from the testimony that if the variance is granted, such use, as proposed, will not be contrary to the spirit of the B.C.Z.R. and will not result in any injury to the public good.

After due consideration of the testimony and evidence presented, it is clear that practical difficulty or unreasonable hardship will result if the variance is not granted. It has been established that special circumstances or conditions exist that are peculiar to the land or structure which is the subject of this variance request and that the requirements from which the Petitioner seeks relief will unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the variance requested will not cause any injury to the public health, safety or general welfare. Further, the granting of the Petitioner's request is in strict harmony with the spirit and intent of the B.C.Z.R.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the variance requested should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 15<sup>th</sup> day of October, 1992 that the Petition for Zoning Variance requesting relief from Sections 1B01.2.C.2 and 301.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an open projection setback of 7 feet in lieu of the required 11.25 feet and to amend the final development plan of the Resubdivision of a Portion of Whittemore Park for an existing carport, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

- 1) The Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.
- 2) The subject carport shall not be enclosed in any manner and shall remain open on the three exposed sides.
- 3) When applying for any permits, the site plan filed must reference this case and set forth and address the restrictions of this Order.

*Timothy M. Kotroco*  
 TIMOTHY M. KOTROCO  
 Deputy Zoning Commissioner  
 for Baltimore County

TMK:bjs

Baltimore County Government  
 Zoning Commissioner  
 Office of Planning and Zoning

Suite 113 Courthouse  
 400 Washington Avenue  
 Towson, MD 21284

October 15, 1992

(410) 887-4366

Mr. & Mrs. Donald Proescher  
 1214 Weddel Avenue  
 Baltimore, Maryland 21227

RE: PETITION FOR ZONING VARIANCE  
 SW/S Weddel Avenue, 550' NW of Benson Avenue  
 (1214 Weddel Avenue)  
 13th Election District - 1st Councilmanic District  
 Donald Proescher, et ux - Petitioners  
 Case No. 93-58-A

Dear Mr. & Mrs. Proescher:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Zoning Variance has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 887-3351.

Very truly yours,

*Timothy M. Kotroco*  
 TIMOTHY M. KOTROCO  
 Deputy Zoning Commissioner  
 for Baltimore County

TMK:bjs

cc: People's Counsel

file

ORDER RECEIVED FOR FILING

Date 10/15/92  
 By [Signature]

ORDER RECEIVED FOR FILING

Date 10/15/92  
 By [Signature]

ORDER RECEIVED FOR FILING

Date 10/15/92  
 By [Signature]

**Petition for Variance**  
 93-58-A  
 to the Zoning Commissioner of Baltimore County  
 for the property located at 1214 Weddel Ave  
 which is presently zoned DR 5.5

This Petition shall be filed with the Office of Zoning Administration & Development Management. The undersigned, legal owner(s) of the property situated in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Sections 1B01.2.C.2 and 301.1 of the Baltimore County Zoning Regulations to permit an open projection setback of 7 feet in lieu of the required 11.25 feet and to amend the final development plan of the Resubdivision of a Portion of Whittemore Park for an existing carport in accordance with Petitioner's Exhibit 1.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reasons: (Indicate hardship or practical difficulty)

To be discussed at hearing

Property is to be posted and advertised as prescribed by Zoning Regulations. I or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contract Purchaser/Lessee  
 Legal Owner(s)  
 Donald Proescher  
 Margaret Proescher  
 Margaret A Proescher  
 Address: 1214 Weddel Ave. 21227  
 City: Baltimore, MD 21227  
 Phone No.: 247-2728

Attorney for Petitioner  
 Name: Paul G. [Signature]  
 Address: [Address]  
 City: [City] State: [State] Zipcode: [Zipcode]  
 Phone No.: [Phone No.]

ESTIMATED LENGTH OF HEARING  
 [ ] 15 minutes [ ] 30 minutes [ ] 45 minutes [ ] 1 hour [ ] 1.5 hours [ ] 2 hours [ ] 3 hours [ ] 4 hours [ ] 5 hours [ ] 6 hours [ ] 7 hours [ ] 8 hours [ ] 9 hours [ ] 10 hours [ ] 15 hours [ ] 20 hours [ ] 30 hours [ ] 45 hours [ ] 60 hours [ ] 90 hours [ ] 120 hours [ ] 180 hours [ ] 240 hours [ ] 360 hours [ ] 480 hours [ ] 720 hours [ ] 960 hours [ ] 1440 hours [ ] 2160 hours [ ] 2880 hours [ ] 4320 hours [ ] 5760 hours [ ] 7200 hours [ ] 8640 hours [ ] 10080 hours [ ] 12960 hours [ ] 17280 hours [ ] 23040 hours [ ] 30720 hours [ ] 40960 hours [ ] 54912 hours [ ] 73536 hours [ ] 98016 hours [ ] 129600 hours [ ] 172800 hours [ ] 230400 hours [ ] 307200 hours [ ] 409600 hours [ ] 549120 hours [ ] 735360 hours [ ] 980160 hours [ ] 1296000 hours [ ] 1728000 hours [ ] 2304000 hours [ ] 3072000 hours [ ] 4096000 hours [ ] 5491200 hours [ ] 7353600 hours [ ] 9801600 hours [ ] 12960000 hours [ ] 17280000 hours [ ] 23040000 hours [ ] 30720000 hours [ ] 40960000 hours [ ] 54912000 hours [ 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Baltimore County  
Zoning Administration & Development Management  
111 West Chesapeake Avenue  
Towson, MD 21284

Account: 8-01-4150  
Number

93-58

receipt

Please Make Checks Payable To: Baltimore County

Cashier Validation

Baltimore County Government  
Office of Zoning Administration  
and Development Management  
Office of Planning & Zoning

111 West Chesapeake Avenue  
Towson, MD 21204 (410) 887-3353

DATE: 9/16/92

Donald and Margaret Proescher  
1214 Weddel Avenue  
Baltimore, Maryland 21227

RE:  
CASE NUMBER: 93-58-A  
80/8 Weddel Avenue, 550' Wily Benson Avenue  
1214 Weddel Avenue  
13th Election District - 1st Councilmatic  
Petitioner(s): Donald Proescher and Margaret G. Proescher  
HEARING: TUESDAY, OCTOBER 6, 1992 at 2:00 p.m. in Room 118, Old Courthouse

Dear Petitioner(s):

Please be advised that \$6433 is due for advertising and posting of the above captioned property and hearing date.

THIS FEE MUST BE PAID AND THE ZONING SIGN & POST SET(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT ISSUE. DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY UNTIL THE DAY OF THE HEARING.

Please forward your check via return mail to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 109, Towson, Maryland 21204. Place the case number on the check and make same payable to Baltimore County, Maryland. In order to avoid delay of the issuance of proper credit and/or your order, immediate attention to this matter is suggested.

ARNOLD JABLON  
DIRECTOR

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Baltimore County Government  
Office of Zoning Administration  
and Development Management  
Office of Planning & Zoning

111 West Chesapeake Avenue  
Towson, MD 21204 (410) 887-3353

SEPTEMBER 28, 1992

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 93-58-A  
80/8 Weddel Avenue, 550' Wily Benson Avenue  
1214 Weddel Avenue  
13th Election District - 1st Councilmatic  
Petitioner(s): Donald Proescher and Margaret G. Proescher  
HEARING: TUESDAY, OCTOBER 6, 1992 at 2:00 p.m. in Room 118, Old Courthouse

Variance to allow an open projection setback of 7 feet in lieu of the required 11.25 feet; and to amend the Final Development Plan.

Lawrence E. Schmidt  
Zoning Commissioner of Baltimore County

cc: Donald and Margaret Proescher

NOTE: HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.

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Baltimore County Government  
Office of Zoning Administration  
and Development Management  
Office of Planning & Zoning

111 West Chesapeake Avenue  
Towson, MD 21204 (410) 887-3353

September 29, 1992

Mr. & Mrs. Donald Proescher  
1214 Weddel Avenue  
Baltimore, MD 21227

RE: Item No. 65, Case No. 93-58-A  
Petitioner: Donald Proescher, et ux  
Petition for Variance

Dear Mr. & Mrs. Proescher:

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans submitted with the above referenced petition. The attached comments from each reviewing agency are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties, i.e. Zoning Commissioner, attorney and/or the petitioner, are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case.

Enclosed are all comments submitted thus far from the members of ZAC that offer or request information on your petition. If additional comments are received from other members of ZAC, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

The following comments are related only to the filing of future zoning petitions and are aimed at expediting the petition filing process with this office.

1) The Director of Zoning Administration and Development Management has instituted a system whereby seasoned zoning attorneys who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions filing requirements can file their petitions with this office without the necessity of a preliminary review by Zoning personnel.

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Baltimore County Government  
Office of Zoning Administration  
and Development Management  
Office of Planning & Zoning

111 West Chesapeake Avenue  
Towson, MD 21204 (410) 887-3353

Your petition has been received and accepted for filing this 19th day of August, 1992

ARNOLD JABLON  
DIRECTOR

Received By:  
W. Carl Richards Jr.  
Chairman,  
Zoning Plans Advisory Committee

Petitioner: Donald Proescher, et ux  
Petitioner's Attorney:

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DPW/Developers Engineering Division (Public Services)  
Development Review Committee Response Form  
Authorized signature: *Arnold Jablon* Date: 9/16/92

Project Name: Stonegate at Patapsco (Aerial Property)

File Number	Waiver Number	Zoning Issue	Meeting Date
90476			6-1-92
ZON DED	TE (Waiting for developer to submit plans first)		
COUNT 1			
DEPRM RP STP TE	54		8/31/92 Comment
Lyons Mill Partnership			
DEPRM RP STP TE	62		NA
Steven Lewis and Mary Ann Kidwell			
DEPRM RP STP TE	63		NC
ReVisions, Inc.			
DEPRM RP STP TE	64		Comment
Donald And Margaret Proescher			
DEPRM RP STP TE	65		NC
Franciaco and Ada Figueroa			
DEPRM RP STP TE	66		NC
Pamela H. and Randall W. Perkins			
DEPRM RP STP TE	67		NC
Johnny M. Boyles			
DEPRM RP STP TE	68		NC
Donald E. and Mary Bell Grempler			
DEPRM RP STP TE	69		Comment
Gordon E. Sugar			
DEPRM RP STP TE	70		NC
Michael and Patricia Perholtz			
DEPRM RP STP TE	71		NC

EMCD/PM:prh

AUG31/ZAC1

BALTIMORE COUNTY, MARYLAND  
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director  
Zoning Administration and Development Management

DATE: September 4, 1992

FROM: Ervin Mc Daniel, Chief  
Office of Planning and Zoning  
Development Review Section

SUBJECT: Petitions from Zoning Advisory Committee  
August 31, 1992

The Office of Planning and Zoning has no comments on the following petitions:

Steven L. Kidwell, Item No. Work #10 # 63  
Franciaco Figueroa, Item No. Work #13 # 66  
Pamela H. Perkins, Item No. Work #14 # 67  
Johnny M. Boyles, Item No. Work #15 # 67  
Donald Proescher, Item No. # 65

If there should be any further questions or if this office can provide additional information, please contact Francis Norsey in the Office of Planning at 887-3211.

EMCD/PM:prh

RECEIVED  
SEP 8 1992  
ZONING OFFICE

DPW/Developers Engineering  
Development Review Committee Response Form  
Authorized signature: *Arnold Jablon* Date: 9/16/92

Project Name: Stonegate at Patapsco (Aerial Property)

File Number	Waiver Number	Zoning Issue	Meeting Date
90476			6-1-92
ZON DED	TE (Waiting for developer to submit plans first)		
COUNT 1			
DEPRM RP STP TE	48	W/C	8-24-92
Salvo Realty, Inc.			
DEPRM RP STP TE	50	W/C	
COUNT 2			
DEPRM RP STP TE	54	W/C	8/31/92
Lyons Mill Partnership			
DEPRM RP STP TE	62	W/C	
Steven Lewis and Mary Ann Kidwell			
DEPRM RP STP TE	63	W/C	
ReVisions, Inc.			
DEPRM RP STP TE	64	W/C	
Donald And Margaret Proescher			
DEPRM RP STP TE	65	W/C	
Franciaco and Ada Figueroa			
DEPRM RP STP TE	66	W/C	
Pamela H. and Randall W. Perkins			
DEPRM RP STP TE	67	W/C	
Johnny M. Boyles			
DEPRM RP STP TE	68	W/C	

